



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse13121722

[REDACTED],  
Complainant,

v.

PIZZA KING,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On December 13, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against Pizza King ("Respondent") alleging discrimination on the basis of sex (pregnancy) in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was denied employment because of her pregnancy. In order to prevail, Complainant must show that: (1) she is a member of a protected class; (2) she applied and was qualified for the position; (3) a nexus exists between Complainant's pregnancy and the denial of employment. It is evident that Complainant is a member of a protected class by virtue of her pregnancy. Moreover, there is no question that she met the basic qualifications for a position in Respondent's kitchen and that a nexus exists between Complainant's pregnancy and the subsequent denial of employment.

By way of background, Complainant applied for a position performing work in Respondent's kitchen on or about November 5, 2013. At all times relevant to the Complaint, the duties associated with the position included but were not limited to making pizzas, working the oven, and performing prep duties. Complainant asserts that on the day in question, she completed an application and Respondent's owner interviewed her that same day. Complainant also states that



after the interview, Respondent's owner asked Complainant about her availability to which she replied that she would be available to start "as soon as possible." Complainant additionally asserts that Respondent's owner inquired about her shirt size, provided her a "clock-in number," a start date, and an employee packet. Complainant asserts and Respondent admits that shortly thereafter, Respondent's owner called Complainant and asked a few questions including whether she had any felonies or disabilities. Once Complainant responded in the negative, Respondent told Complainant that she had heard that Complainant was pregnant and that she could not hire her for "safety reasons." While Complainant asserts she replied, stating that she was only four weeks pregnant, Respondent retorted "well don't you think that [pregnancy] is a disability." Complainant responded, stating that she would be "perfectly fine to work" as this was her third child; nonetheless, Respondent failed to hire Complainant, ultimately selecting a male for the position. Shortly thereafter, Complainant asserts she posted a status on Facebook stating "I could not believe that an employer from my hometown would deny me employment because I was pregnant" to which Respondent responded "pregnant people are a liability and that she does not hire pregnant people in her store." It is important to note that during the course of the investigation, Respondent admitted that she has never hired pregnant employees because of "all the safety issues." Respondent further admits that while she has employed women who became pregnant during the course of their employment, she required them to bring a "doctor's slip" in every month and "once they reach their second trimester, they are laid off and can no longer work." Respondent further stated that "once they come back to work they have to provide a doctor's statement indicating they can work." Despite Respondent's refusal to provide documentation during the course of the investigation, Respondent admitted on several occasions that she did not hire pregnant women and that the laws cannot dictate how she runs her business. Based upon the aforementioned, probable cause exists to believe that an unlawful discriminatory practice occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

November 13, 2014

Date

Akia A. Haynes

Akia A. Haynes, Esq.,

Deputy Director

Indiana Civil Rights Commission